



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 16, 1998

Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR98-0168

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112047.

The City of Austin (the "city") received a request for

The names and addresses of all fee owners of property who were contacted for the first time by the City of Austin, its employees, agents, or representatives, during the six-month period between March 1, 1997, and August 1, 1997, in connection with any effort or plan to acquire such property for public use (either through informal negotiations or formal condemnation proceedings).

You advise that the city does not maintain a list of property owners it contacts for purposes of real estate acquisition. However, you state that the requested information exists in files related to individual parcels under consideration for acquisition. You state that the city will make available to the requestor the closed files related to individual parcels for the time period requested. You claim, however, that the remaining requested information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.105 excepts from disclosure information relating to:

(1) the location of real or personal property for a public purpose prior to public announcement of the project; or

(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 (1990) at 2. For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body's negotiating position with respect to the remaining parcels. *Id.* A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" Open Records Decision No. 357 (1982) at 3 (quoting Open Records Decision No. 222 (1979)).

When a governmental body has made a good faith determination that the release of information would damage its negotiating position with respect to the acquisition of property, the attorney general in issuing a ruling under section 552.306 will accept that determination unless the records or other information show the contrary as a matter of law. Open Records Decision No. 564 (1990). You assert that the names and addresses of property owners contacted regarding possible real estate acquisitions by the city is information directly related to the location of the property. We agree. Accordingly, the information submitted for our review may be withheld from required public disclosure under section 552.105 of the Government Code so long as the transactions related to these properties have not been completed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/alg

Ref.: ID# 112047

Enclosures: Submitted documents

cc: Mr. Paul Schorn
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(w/o enclosures)